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September 15, 1999

VIA FACSIMILE AND U.S. MAILMr. Earl Liverman
EPA Region 10 Coeur d'Alene Field Office
1910 Northwest Blvd., Suite 208
Coeur d'Alene, ID 83814Clifford J. Villa, Esq.
U.S. EPA, Region 10
1200 Sixth Avenue, ORC-158
Seattle, WA 98101

Re: In the Matter Of Union Pacific Railroad, Wallace-Mullan Branch, Northern Idaho,
U.S. EPA Region 10 CERCLA Docket No. CERCLA-10-99-0234, as modified by
EPA Region 10 letter from Michael Gearheard dated September 10, 1999 (the
"UAO") - Notice of Intent to Comply

Dear Mr. Liverman and Mr. Villa:

In accordance with the requirements of Paragraph 19 of the UAO, as modified by Mr. Gearheard's September 10 letter, this letter is submitted on behalf of Union Pacific Railroad Company (UP) to notify you of UP's intent to comply with the lawful requirements of the UAO.

UP's notice of intent to comply is based upon the Railroad's understanding that the only costs that EPA may seek to recover from UP under the UAO are "Construction Oversight Costs" to be incurred by the "Government Project Coordinator" in the course of overseeing and advising the design and implementation of the work under the UAO. Our understanding is that the Government Project Coordinator is Mr. Ed Moreen, U.S. Army Corps of Engineers, Kellogg, Idaho. We further understand that EPA may submit a bill for Construction Oversight Costs incurred over a defined period. Of course, we assume that EPA will only seek to recover Construction Oversight Costs that are not inconsistent with the NCP in accordance with

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CERCLA. Finally, we note that the UAO is issued pursuant to Section 106(a) of CERCLA. Section 106(a) does not provide EPA with authority to demand reimbursement of response costs. While UP is willing to cooperate with the government and reimburse Mr. Moreen's costs on an interim basis through the UAO mechanism based upon EPA's representations that such a mechanism is required, UP is not compelled to pay such costs under Section 106 of CERCLA. UP reserves its right to cease such reimbursement in the event that settlement of this matter is not achieved in a timely manner or costs are unreasonable or otherwise inconsistent with the NCP.

UP already has provided the Agency with a revised Concentrate Accumulation Removal Work Plan in accordance with the requirements of Paragraph 23 of the UAO. The revised CAR Work Plan was submitted September 3, 1999. EPA and the Tribe provided comments on the revised CAR Work Plan on September 14, 1999 during the weekly technical conference call.

Mr. Gearheard's September 10 letter states that EPA remains interested in initiating the removal of concentrates from the right-of-way this field season. UP intends to provide a schedule addressing the concentrates next week. This schedule will provide that UP will implement sampling within two weeks after approval of the CAR Work Plan, weather permitting. Actual removal of concentrates is scheduled to begin next spring. UP continues to strongly believe that no valid environmental or public health basis exists to require removal of the concentrates this field season. We intend to discuss this further within the technical group after the group has an opportunity to review the schedule.

UP does not admit and reserves its right to contest the jurisdictional and general provisions, findings of fact, and conclusions of law set forth respectively in Sections I, IV, and V of the UAO. Without limitation, UP specifically contests that an imminent and substantial endangerment exists at or around the Right-of-Way. This Notice of Intent to Comply shall not under any circumstances constitute an admission of the terms or conditions of the Order, or of any liability arising out of or related to the Right-of-Way or the Coeur d'Alene Basin.

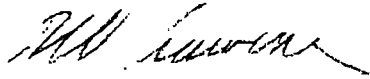
The UAO anticipates that the UAO may be superseded by the requirements of the consent decree that currently is the subject of negotiations among the United States, the State of Idaho, the Coeur d'Alene Tribe and the UP. UP agrees that the consent decree is the appropriate mechanism to resolve these issues, and that the consent decree should supersede the UAO. As we have discussed, it is critical given the Court's litigation schedule that the parties continue to make progress towards lodging a consent decree with the United States District Court for the District of Idaho on or before November 1, 1999. We look forward to working closely with the United States, the State and the Tribe to meet this deadline.

We appreciate your consideration of these comments. Please include these comments in the administrative record for the Union Pacific Railroad Wallace-Mullan Branch Engineering

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Evaluation/Cost Analysis dated January 15, 1999. If you have any questions, please do not hesitate to contact me at 303-892-7409.

Very truly yours,



Robert W. Lawrence

cc: Tom Greenland, Esq.
Bob Markworth
Mike Cooper

RWL:sas